

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

HODA, L.L.C.

vs.

JOHN HANCOCK REAL ESTATE  
FINANCE, INC. and JOHN HANCOCK  
LIFE INSURANCE COMPANY

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CIVIL ACTION NO. 3-08-CV-1482-D

PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT

COMES NOW, Plaintiff, HODA, L.L.C., and submits this, its Motion for Summary Judgment pursuant to Federal Rule of Civil Procedure 56, as follows:

Plaintiff seeks an order granting summary judgment against John Hancock Real Estate Finance, Inc. and John Hancock Life Insurance Company. Plaintiff is entitled to summary judgment because, based on the undisputed facts and the evidence in the attached Appendix, no genuine issue of material fact exists. As a result, Plaintiff is entitled to judgment and damages in the amount of at least \$646,151.28 plus attorney's fees as a matter of law.

Summary

Plaintiff will set forth the grounds for summary judgment and each of the matters required by Local Rule 56.3(a) in its Brief in Support of this Motion, which is incorporated by reference.

Summary Judgment Evidence

In support of its Motion for Summary Judgment, HODA relies upon the pleadings and documents on file, the undisputed facts, and the following evidence in the attached appendix, which is incorporated by reference into the motion. Exhibits in the Appendix are:

Exhibit "A": Affidavit of Tom Lane.

Exhibits “A-1” through “A-6”: Notes and Deeds of Trust for the Spring Valley, Park Springs and White Settlement locations.

Exhibit “A-7”: December 10, 2003 letter from John Nagle.

Exhibit “A-8”: Seller’s (HODA’s) closing statement regarding sale of Spring Valley.

Exhibit “A-9”: Settlement statement regarding Park Springs and White Settlement loans.

Exhibits “A-10” through “A-12”: Releases of Liens for the Spring Valley, White Settlement and Park Springs locations.

Exhibit “A-13”: Vanderwende e-mail and attachments.

Exhibit “B”: Calculations under Sections 2 and 3 of Spring Valley Note.

Exhibit “B-1”: U.S. Treasury Yield Curve rates for 2004.

Exhibit “C”: Calculations under Sections 2 and 3 of Park Springs Note.

Exhibit “C-1”: U.S. Treasury Yield Curve rates for 2006.

Exhibit “D”: Calculations under Sections 2 and 3 of White Settlement Note. (U.S. Treasury Yield Curve rates for 2006 are attached as Exhibit “C-1” to Exhibit “C.”)

#### Attorney Fees

HODA is entitled to attorney fees incurred in prosecuting this suit. HODA will provide proof at a subsequent time and date pursuant to the further orders of this Court.

#### Prayer

Wherefore, premises considered, Plaintiff prays that this Court grant its Motion for Summary Judgment, award Plaintiff its damages and its attorney fees, and grant all other such relief to which it is justly entitled.

Respectfully submitted,

S/John L. Freeman

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ATTORNEY FOR PLAINTIFF

CERTIFICATE OF SERVICE

I certify that on July 10, 2009, a true and correct copy of the above and foregoing Motion for Summary Judgment was sent via courier to the Defendant's counsel, David W. Klaudt, 2200 Ross Avenue, Suite 220, Dallas, TX 75201.

S/John L. Freeman

John L. Freeman